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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 JOSE LUEVANO,

12 Plaintiff,

13 v.

14 ANTHONY JENKINS, et al.,

15 Defendants.  
16

No. 2:22-cv-0091 TLN KJN P

ORDER

17 Plaintiff filed a motion for the appointment of a guardian ad litem. As discussed below,  
18 plaintiff's motion is denied without prejudice.

19 Governing Standards

20 Under Federal Rule of Civil Procedure 17(c)(2), "[t]he court must appoint a guardian ad  
21 litem -- or issue another appropriate order -- to protect a minor or incompetent person who is  
22 unrepresented in an action." Id. "Although the court has broad discretion and need not appoint a  
23 guardian ad litem if it determines the person is or can be otherwise adequately protected, it is  
24 under a legal obligation to consider whether the person is adequately protected." United States v.  
25 30.64 Acres of Land, More or Less, Situated in Klickitat Cnty., State of Wash., 795 F.2d 796, 805  
26 (9th Cir. 1986).

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Discussion

Plaintiff states, inter alia, that he is in the mental health program at the EOP level of care and is prescribed psychotropic medications.<sup>1</sup> In his motion, plaintiff claims his legal assistant is writing plaintiff's opposition to the pending motion for summary judgment based on plaintiff's alleged failure to exhaust administrative remedies, but such assistance is only temporary. Subsequently, plaintiff filed a motion for extension of time claiming he now has the assistance of a jailhouse lawyer to file an opposition to the pending motion for summary judgment. Plaintiff's motion was granted, and he was provided an additional thirty days in which to file an opposition.

Because plaintiff has assistance to oppose the pending motion, plaintiff's motion for guardian ad litem is denied without prejudice.

Accordingly, IT IS HEREBY ORDERED that plaintiff's motion (ECF No. 49) is denied without prejudice.

Dated: October 30, 2023

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> The Mental Health Services Delivery System Program Guide for the California Department of Corrections and Rehabilitation provides four levels of mental health care services: Correctional Clinical Case Management System ("CCCMS"); Enhanced Outpatient ("EOP"); Mental Health Crisis Bed ("MHCB") and inpatient hospital care. Coleman v. Brown, 2013 WL 6491529, at \*1 (E.D. Cal. Dec. 10, 2013).